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105TH CONGRESS  
2D SESSION

# S. 1908

To amend title XVIII of the Social Security Act to carve out from payments to Medicare+Choice organizations amounts attributable to disproportionate share hospital payments and pay such amounts directly to those disproportionate share hospitals in which their enrollees receive care.

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## IN THE SENATE OF THE UNITED STATES

APRIL 2, 1998

Mr. MOYNIHAN (for himself, and Mr. D'AMATO) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to carve out from payments to Medicare+Choice organizations amounts attributable to disproportionate share hospital payments and pay such amounts directly to those disproportionate share hospitals in which their enrollees receive care.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Managed Care Fair  
5 Payment Act of 1998".

1 **SEC. 2. CARVING OUT DSH PAYMENTS FROM PAYMENTS TO**  
 2 **MEDICARE+CHOICE ORGANIZATIONS AND**  
 3 **PAYING THE AMOUNTS DIRECTLY TO DSH**  
 4 **HOSPITALS ENROLLING MEDICARE+CHOICE**  
 5 **ENROLLEES.**

6 (a) IN GENERAL.—Section 1853(c)(3) of the Social  
 7 Security Act (42 U.S.C. 1395w-23(c)(3)), as inserted by  
 8 section 4001 of the Balanced Budget Act of 1997, is  
 9 amended—

10 (1) in subparagraph (A), by striking “subpara-  
 11 graph (B)” and inserting “subparagraphs (B) and  
 12 (D)”,

13 (2) by redesignating subparagraph (D) as sub-  
 14 paragraph (E), and

15 (3) by inserting after subparagraph (C) the fol-  
 16 lowing:

17 “(D) REMOVAL OF PAYMENTS ATTRIB-  
 18 UTABLE TO DISPROPORTIONATE SHARE PAY-  
 19 MENTS FROM CALCULATION OF ADJUSTED AV-  
 20 ERAGE PER CAPITA COST.—

21 “(i) IN GENERAL.—In determining  
 22 the area-specific Medicare+Choice capita-  
 23 tion rate under subparagraph (A) for a  
 24 year (beginning with 1999), the annual per  
 25 capita rate of payment for 1997 deter-  
 26 mined under section 1876(a)(1)(C) shall be

adjusted, subject to clause (ii), to exclude from the rate the additional payments that the Secretary estimates were payment during 1997 for additional payments described in section 1886(d)(5)(F).

“(ii) TREATMENT OF PAYMENTS COVERED UNDER STATE HOSPITAL REIMBURSEMENT SYSTEM.—To the extent that the Secretary estimates that an annual per capita rate of payment for 1997 described in clause (i) reflects payments to hospitals reimbursed under section 1814(b)(3), the Secretary shall estimate a payment adjustment that is comparable to the payment adjustment that would have been made under clause (i) if the hospitals had not been reimbursed under such section.”.

(b) ADDITIONAL PAYMENTS FOR MANAGED CARE ENROLLEES.—Section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(1) in clause (ii), by striking “clause (ix)” and inserting “clauses (ix) and (x)”, and

(2) by adding at the end the following:

“(ix)(I) For portions of cost reporting periods occurring on or after January 1, 1999, the Secretary shall pro-



1 vide for an additional payment amount for each applicable  
2 discharge of any subsection (d) hospital that is a dis-  
3 proportionate share hospital (as described in clause (i)).

4 “(II) For purposes of this clause, the term ‘applicable  
5 discharge’ means the discharge of any individual who is  
6 enrolled under a risk-sharing contract with an eligible or-  
7 ganization under section 1876 and who is entitled to bene-  
8 fits under part A or any individual who is enrolled with  
9 a Medicare+Choice organization under part C.

10 “(III) The amount of the payment under this clause  
11 with respect to any applicable discharge shall be equal to  
12 the estimated average per discharge amount that would  
13 otherwise have been paid under this subparagraph if the  
14 individuals had not been enrolled as described in subclause  
15 (II).

16 “(IV) The Secretary shall establish rules for an addi-  
17 tional payment amount, for any hospital reimbursed under  
18 a reimbursement system authorized under section  
19 1814(b)(3) if such hospital would qualify as a dispropor-  
20 tionate share hospital under clause (i) were it not so reim-  
21 bursed. Such payment shall be determined in the same  
22 manner as the amount of payment is determined under  
23 this clause for disproportionate share hospitals.”.

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